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11 *Attorneys for Plaintiff, The Bank of New York Mellon Trust Company, N.A. f/k/a The Bank of New*
12 *York Trust Company, N.A. as successor-in-interest to JPMorgan Chase Bank N.A. f/k/a*
13 *JPMorgan Chase Bank, as Trustee for MASTR Adjustable Rate Mortgages Trust 2004-9,*
14 *Mortgage Pass-Through Certificates, Series 2004-9*

15 **UNITED STATES DISTRICT COURT**
16 **DISTRICT OF NEVADA**

17 THE BANK OF NEW YORK MELLON
18 TRUST COMPANY, N.A. F/K/A THE
19 BANK OF NEW YORK TRUST
20 COMPANY, N.A. AS SUCCESSOR-IN-
21 INTEREST TO JPMORGAN CHASE BANK
22 N.A. F/K/A JPMORGAN CHASE BANK,
23 AS TRUSTEE FOR MASTR ADJUSTABLE
24 RATE MORTGAGES TRUST 2004-9,
25 MORTGAGE PASS-THROUGH
26 CERTIFICATES, SERIES 2004-9,

27 Plaintiff,

28 vs.

FIDELITY NATIONAL TITLE GROUP,
INC.; CHICAGO TITLE INSURANCE
COMPANY,

Defendants.

Case No.: 2:20-cv-01394-JCM-BNW

**STIPULATION AND ORDER TO
EXTEND DISCOVERY**

(First Request)

Plaintiff, The Bank of New York Mellon Trust Company, N.A. f/k/a The Bank of New
York Trust Company, N.A. as successor-in-interest to JPMorgan Chase Bank N.A. f/k/a
JPMorgan Chase Bank, as Trustee for MASTR Adjustable Rate Mortgages Trust 2004-9,
Mortgage Pass-Through Certificates, Series 2004-9 (“BONY”) and Defendants, Chicago Title
Insurance Company (“Chicago Title”) and Fidelity National Title Group, Inc. (“Fidelity”)

(collectively, the “Parties”), by and through their counsel of record, hereby submit their Stipulation to Extend Discovery Deadlines by ninety (90) days in accordance with Local Rule 26-3 and Local Rule IA 6-1. The Parties are requesting an extension to the discovery deadlines as the Parties are still in process of responding to written discovery requests and additional time is needed to allow the Parties’ experts to review those responses prior to authoring their expert reports. Additionally, the Parties have tentatively reached an agreement to dismiss Fidelity from this action, which would streamline the issues needed for discovery. An extension to the discovery deadlines would provide the Parties additional time to complete the settlement and to disclose experts.

This is the Parties first request for an extension of time to the current discovery plan and counsel submits that the request is brought in good faith, supported by good cause in compliance with LR 26-3, and is not intended to cause delay.

A. Statement Specifying the Discovery Completed:

The Parties conducted the Fed. R. Civ. P. 26(f) conference on September 23, 2020. On October 9, 2020, the Court entered its initial Discovery Plan and Scheduling Order [ECF No. 22]. On July 23, 2021, the Court entered an Order staying the case pending the outcome of *Wells Fargo Bank, N.A. v. Fidelity Nat’l Title Ins. Co.*, Ninth Cir. Case No. 19-17332, Case No. 3:19-cv-00241-MMD-WGC (*Wells Fargo II*) [ECF No. 63]. A Minute Order lifting the stay was entered on January 11, 2022 [ECF No. 72]. Subsequently, the current Scheduling Order [ECF No. 74] was entered on April 29, 2022, with the following deadlines:

- Initial disclosures: already occurred.
- Amending pleadings and adding parties: July 5, 2022;
- Initial expert disclosures: August 4, 2022;
- Rebuttal expert disclosures: September 6, 2022;
- Discovery cutoff: October 3, 2022;
- Dispositive motions: November 2, 2022; and
- Joint proposed pretrial order: December 2, 2022, or 30 days after resolution of dispositive motions.

1 To date, the Parties have completed the following discovery:

- 2 • Chicago Title and Fidelity's Initial Disclosure of Witnesses and Documents,
3 November 6, 2020;
- 4 • BONY's Initial Disclosure of Witnesses and Documents, November 6, 2020;
- 5 • Chicago Title's First Set of Interrogatories to BONY, September 30, 2020;
- 6 • Chicago Title's First Set of Requests for Admission to BONY, September 30,
7 2020;
- 8 • Chicago Title's First Set of Requests for Production to BONY, September 30,
9 2020;
- 10 • BONY's First Set of Interrogatories to Chicago Title, November 10, 2020;
- 11 • BONY's First Set of Requests for Admission to Chicago Title, November 10,
12 2020;
- 13 • BONY's First Set of Requests for Production to Chicago Title, November 10,
14 2020;
- 15 • BONY's First Set of Interrogatories to Fidelity, November 10, 2020;
- 16 • BONY's First Set of Requests for Admission to Fidelity, November 10, 2020;
- 17 • BONY's First Set of Requests for Production to Fidelity, November 10, 2020;
- 18 • BONY's Responses to Chicago Title's First Set of Requests for Admission,
19 February 5, 2021;
- 20 • Chicago Title's Notice of Intent to Serve Subpoena Duces Tecum to the following
21 Entitles, February 16, 2021:
 - 22 ○ Western Progressive – Nevada, Inc.;
 - 23 ○ Corelogic, Inc.;
 - 24 ○ Ocwen Loan Servicing, LLC;
 - 25 ○ Bank of America, N.A.;
 - 26 ○ Nevada New Builds, LLC;
 - 27 ○ La Posada Condominium Property Owner's Association;
 - 28 ○ Kevin E. Davidson;

- Karen M. Davidson;
- ReconTrust Company, N.A.;
- Nevada Association Services, Inc.;
- Miles Bauer Bergstron & Winters, LLP; and
- Mortgage Electronic Registrations Systems, Inc.
- Chicago Title’s Subpoena Duces Tecum to Mortgage Electronic Registrations Systems, Inc., served February 19, 2021;
- Chicago Title’s Subpoena Duces Tecum to Ocwen Loan Servicing, LLC, served February 19, 2021;
- Chicago Title’s Subpoena Duces Tecum to Federal National Mortgage Association, served July 2, 2021;
- BONY’s Interrogatories to Chicago Title (*re-served*), July 5, 2022;
- BONY’s Requests for Admission to Chicago Title (*re-served*), July 5, 2022;
- BONY’s Requests for Production to Chicago Title (*re-served*), July 5, 2022; and
- BONY’s Requests for Admission concerning genuineness of documents to Chicago Title (*re-served*), July 5, 2022.

B. Specific Description of the Discovery that Remains to be Completed:

The Parties need to conduct the following discovery:

- Chicago Title’s Responses to BONY’s Written Discovery Requests, currently due August 5, 2022;
- BONY’s Responses to Chicago Title’s Written Discovery Requests, currently due September 2, 2022;
- The Parties’ Initial Expert Disclosure;
- The Parties’ Rebuttal Expert Disclosure;
- Deposition of Fed. R. Civ. P. 30(b)(6) Witness for Chicago Title;
- Deposition of Fed. R. Civ. P. 30(b)(6) Witness for BONY;
- Deposition of various fact witnesses and experts; and
- Such other discovery that may be deemed necessary or appropriate.

C. The Reasons why the Deadline was not Satisfied or the Remaining Discovery was not Completed Within the Time Limits set by the Discovery Plan:

This matter was previously stayed pending the Ninth Circuit's resolution of *Wells Fargo II*. Prior to the stay, little discovery was had between the Parties. Now that the stay has lifted, the Parties need an additional time to respond to each other's substantive written discovery requests prior to the disclosure of experts. Chicago Title's responses to BONY's written discovery requests are due August 5, 2022 and BONY's responses to Chicago Title's Requests for Production and Requests for Admission are due September 2, 2022, which does not provide the Parties' experts with an opportunity to review the documents and responses prior to the current initial expert disclosure deadline of August 4, 2022. The Parties have also reached a tentative agreement to dismiss Fidelity, which will streamline the issues needed for discovery. The Parties need additional time to complete the settlement. Accordingly, the Parties request a ninety (90) day extension to the discovery deadlines to complete the settlement of Fidelity and so that the Parties' experts have sufficient time to review the written discovery responses, documentation, and issue opinions prior to authoring initial expert reports.

In accordance with Local Rule 26-3, good cause exists for an extension to the discovery deadlines as the Parties' experts are unable to prepare an expert report prior to the August 4, 2022 deadline given that written responses from the Parties are not due until August 5th and September 2nd, respectfully.

D. A proposed schedule for completing all remaining discovery.

The Parties request that current Discovery Plan and Scheduling Order [ECF No. 74] be amended as follows:

1. Last Day to Disclose Initial Expert Report: currently August 4, 2022, **desired November 4, 2022;**
2. Last Day to Disclose Rebuttal Experts: currently September 6, 2022, **desired December 5, 2022;**
3. Last Day to Complete Discovery: currently October 3, 2022; **desired January 3, 2023;**

- 1 4. Last Day to File Dispositive Motions: currently November 2, 2022, **desired February**
2 **2, 2023**;
- 3 5. Last Day to File Joint Pre-Trial Order: currently December 2, 2022, **desired March**
4 **2, 2023**. In the event dispositive motions are filed, the date for filing the joint pretrial
5 order shall be suspended until thirty (30) days after a decision of the dispositive
6 motions. The disclosures required by FRCP 26(a)(3), and any objections thereto, shall
7 be included in the pretrial order.

8 **IT IS SO STIPULATED.**

9 DATED this 14th day of July, 2022.

DATED this 14th day of July, 2022.

10 **WRIGHT, FINLAY & ZAK, LLP**

SINCLAIR BRAUN LLP

11 /s/ Lindsay D. Dragon

/s/ Kevin S. Sinclair

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17 *Mellon Trust Company, N.A. f/k/a The Bank*

Title Group, Inc., Ticor Title of Nevada, Inc.,

18 *of New York Trust Company, N.A. as*

and Chicago Title Insurance Company

19 *successor-in-interest to JPMorgan Chase*

Bank N.A. f/k/a JPMorgan Chase Bank, as

Trustee for MASTR Adjustable Rate

Mortgages Trust 2004-9, Mortgage Pass-

Through Certificates, Series 2004-9

20 **ORDER**

21 **IT IS SO ORDERED**

22 **DATED:** 2:42 pm, July 15, 2022

23 

24 **BRENDA WEKSLER**

25 **UNITED STATES MAGISTRATE JUDGE**